

Douglas E. Rosenthal
Jeffrey I. Shinder
Aymeric Dumas-Eymard
David D. Golden
Mitchell L. Stoltz
CONSTANTINE CANNON LLP
1627 Eye Street, N.W., 10th Floor
Washington, DC 20006
Telephone: 202.204.3510
Facsimile: 202.304.3501
Email: drosenthal@constantinecannon.com
Attorneys for Defendant All Nippon Airways Co., Ltd.

Jesse W. Markham, Jr. (CA State Bar No. 087788)
HOLME ROBERTS & OWEN LLP
560 Mission Street, 25th Floor
San Francisco, CA 94105
Telephone: 415.268.1958
Facsimile: 415.268.1999
Email: jesse.markham@hro.com
Attorneys for Defendant All Nippon Airways Co., Ltd.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re TRANSPACIFIC PASSENGER AIR
TRANSPORTATION ANTITRUST
LITIGATION

CASE NO. 07-CV-5634-CRB

MDL No. 1913

CLASS ACTION

**This Document Relates to:
ALL ACTIONS**

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION TO DISMISS
PLAINTIFFS' CONSOLIDATED CLASS
ACTION COMPLAINT:
ISSUES COMMON TO JOINT
DEFENDANTS**

ORAL ARGUMENT REQUESTED

Date: March 12, 2010

Time: 10:00 a.m.

Judge: Hon. Charles R. Breyer

Location: Courtroom No. 8, 19th Floor

[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION TO DISMISS

Case No. 07-CV-5634-CRB

On March 12, 2010, at 10:00 a.m. in this Court, located at 450 Golden Gate Ave., San Francisco, California 94102, Defendants Air New Zealand Limited, All Nippon Airways Co., Ltd., Cathay Pacific Airways, Ltd., China Airlines, Ltd., EVA Airways Corp., Malaysian Airline System Berhad, Philippine Airlines, Inc., Qantas Airways, Ltd., Singapore Airlines, Ltd., Thai Airways International Public Company, Ltd., and Vietnam Airlines Corp.'s Motion to Dismiss came for a regularly scheduled hearing. Having read and reviewed the moving and opposition papers, and good cause appearing, **IT IS HEREBY ORDERED:**

1. The Court **GRANTS** Defendants' Motion to Dismiss without leave to amend.

2. Plaintiffs' claims against Defendants are dismissed without leave to amend on the following grounds:

- (a) This Court lacks subject matter jurisdiction over Plaintiffs' claims based on conduct affecting prices for passenger travel originating outside the United States;
- (b) Plaintiffs lack standing under the antitrust laws;
- (b) Plaintiffs' request for money damages is barred by the filed rate doctrine; and
- (c) Plaintiffs have failed to allege facts that raise a plausible inference of conspiracy under Section 1 of the Sherman Act.

Plaintiffs' Consolidated Amended Complaint is hereby **DISMISSED WITHOUT LEAVE TO AMEND.**

Dated: _____

THE HONORABLE CHARLES R. BREYER
UNITED STATES DISTRICT COURT JUDGE